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Typed or Printed Name

Signature

Date

Attorney Docket
(Confirmation No.)

UCAL203
6822

NOV 0 8 2002

First Named Inventor

E. Raz

Application Number

09/828,505

TECH CENTER 1600/2900

Filing Date

April 6, 2001

Group Art Unit

1636

Examiner Name

Q. Nguyen

Title: Synergistic improvements to polynucleotide vaccines

RESPONSE TO RESTRICTION REQUIREMENT

Address to:
Commissioner for Patents
Washington, D.C. 20231



Sir:

This is in response to the Restriction Requirement dated September 27, 2002. The Restriction Requirement set forth a one-month time period for response, making a response due on or before October 27, 2002. *A Petition for a one-Month Extension of Time is submitted herewith, making this amendment due on or before November 27, 2002.* Accordingly, this response is timely filed.

I. REMARKS

In the Restriction Requirement, the Examiner required election of one of the following groups of claims:

- Group I: Claims 1-7, 10-16 and 19-32, drawn to a polypeptide vaccine comprising a nucleic acid sequence encoding an allergen modified by deletion of a native signal sequence; and methods for modulating an immune response to the antigen or for eliciting an immune response to the antigen; and
- Group II: Claims 1-5, 8-11, 15-21, 26-29 and 31-32, drawn to a polynucleotide vaccine comprising a nucleic acid sequence encoding a pathogenic antigen modified by deletion of a native signal sequence; and methods for modulating an immune response to the antigen or for eliciting an immune response to the antigen.

The Office Action further stated that, should Applicants elect Group I, restriction to one of the following allergens is required:

plant allergen, food allergen, latex allergen, cat dander allergen, cockroach allergen, and house dust mite allergen.

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Applicants hereby elect to prosecute the claims of Group I (claims 1-7, 10-16, and 19-32), and further elect "plant allergen," with traverse.

These elections are made with traverse. As stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. It is Applicants' position that it would not be unduly burdensome to perform a search on claims 1-32 together. Accordingly, Applicants traverse the restriction requirement.

Applicants expressly reserve the right under 35 USC §121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of this application.

SPECIES ELECTION

The Office Action further required two elections of species, as follows.

1) The Office Action stated that, should Applicants elect Group I, and elect plant allergen as a separate group, Applicants are also required to elect one of the following species:

- i) ragweed; and
- ii) grass pollen.

Applicants hereby elect the species of "ragweed" The claims readable on the elected species are claims 1-7, 10-16; 19-32.

2) The Office Action stated that Applicants are required to elect a specifically named sequence listed in the Markush group of claim 21 or claim 32.

Applicants hereby elect the species of "AACGTT." The claims readable on the elected species are claims 1-32.

The above species election are made with traverse.

As stated in 37 C.F.R. §1.141, more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all the limitations of the generic claim.

Applicants submit that the claims are directed to a reasonable number of species. Accordingly, Applicants submit that the species election requirement is not proper.

Applicants expressly reserve the right under 35 USC §121 to file one or more divisional applications directed to the non-elected species during the pendency of this application.


With respect to election of species, Applicants respectfully request rejoinder of withdrawn species claims upon allowance of a claim that encompasses the currently withdrawn species.

II. CONCLUSION

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number UCAL203.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: Oct. 29, 2002

By: 
Paula A. Borden
Registration No. 42,344

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Telephone: (650) 327-3400
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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number

09/828,505

Filing Date

April 6, 2001

First Named Inventor

RAZ, EYAL

Group Art Unit

1636

Examiner Name

NGUYEN, QUANG

Attorney Docket Number

UCAL-203

Total Number of Pages in This Submission

6

ENCLOSURES (check all that apply)



Fee Transmittal Form



Fee Attached



Amendment / Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Documents



Response to Missing Parts/
Incomplete Application



Response to Missing Parts
under 37 CFR 1.52 or 1.53



Assignment Papers
(for an Application)



Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a
Provisional Application



Power of Attorney, Revocation
Change of Correspondence
Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____



After Allowance Communication
to Group



Appeal Communication to Board
of Appeals and Interferences



Appeal Communication to Group
(Appeal Notice, Brief, Reply Brief)



Proprietary Information



Status Letter



Other Enclosure(s) (please
identify below):

- 1) Response to Restriction Requirement (3 pgs.)
- 2) Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm
or
Individual Name

PAULA A. BORDEN (REG. NO. 42,344)

Signature

Date

October 29, 2002

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Typed or printed name

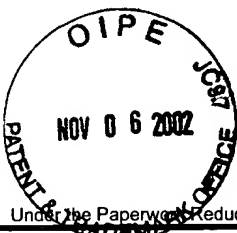
Cindy Hoang

Signature

Date

October 29, 2002

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FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

Complete if Known	
Application Number	09/828,505
Filing Date	April 6, 2001
First Named Inventor	RAZ, EYAL
Examiner Name	NGUYEN, QUANG
Group Art Unit	1636
Attorney Docket No.	UCAL-203

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TOTAL AMOUNT OF PAYMENT (\$55.00)

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit overpayments to:
Deposit Account Number 50-0815
Deposit Account Name Bozicevic, Field & Francis LLP
☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
☒ Applicant Claims small entity status.
See 37 CFR 1.27

2. ☐ Payment Enclosed:
☐ Check ☐ Credit Card ☐ Money Order ☐ Other

FEE CALCULATION

2. BASIC FILING FEE				Fee Description	Fee Paid
Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)		
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
SUBTOTAL (1)					0.00

1. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid
Total Claims -20**	=	x	=
Indep. Claims -3**	=	x	=
Multiple Dependent			

Large Entity Code	Large Entity Fee (\$)	Small Entity Code	Small Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) \$ 0.00				

**or number previously paid, if greater; For Reissues, see above.

FEE CALCULATION (continued)

Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examination action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	55.00
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	For each additional invention to be examined (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)					
SUBTOTAL (3) (\$55.00)					

*Reduced by Basic Filing Fee Paid

SUBMITTED BY		Complete (if applicable)			
Name (Print/Type)	Paula A. Borden	Registration No. (Attorney/Agent)	42,344	Telephone	(650) 327-3400
Signature		Date	10/29/2002		

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